

**DETAILED ACTION**

***Status of Claims***

1. This action is in reply to the Applicant's response filed on 03/18/2008.
2. Claims 1-3, 6, and 35-40 have been cancelled.
3. Claims 4, 7, 9, 15, 22, 26, 28, and 33 have been amended.
4. Claims 4-5 and 7-34 are currently pending and have been examined.

***Information Disclosure Statement***

5. The Information Disclosure Statement filed 03/18/2008 has been considered. An initialed copy of the Form 1449 is enclosed herewith.

***Response to Arguments***

6. With regard to the Applicant's arguments, they are considered moot, in view of the new grounds of rejection, set forth below, necessitated by the Applicant's amendments to the claimed invention.

***Previous Claim Rejections - 35 USC § 112***

7. Claims 15, 33, and 39 were rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The Examiner appreciates the Applicant's prompt attention to these deficiencies and hereby withdraws such rejections.

***Claim Rejections - 35 USC § 101***

8. 35 U.S.C. 101 reads as follows:

*Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.*

9. Claims 7-34 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

10. Claims 7-34, as recited, are directed toward a method for managing a partial equity interest in a real estate property comprising the steps of enabling, obtaining, retaining, waiving, having, collecting, storing, checking, processing, transferring, filing, and monitoring. Based on Supreme Court precedent, a proper process must be tied to another statutory class or transform underlying subject matter to a different state or thing (*Diamond v. Diehr*, 450 U.S. 175, 184 (1981); *Parker v. Flook*, 437 U.S. 584, 588 n.9 (1978); *Gottschalk v. Benson*, 409 U.S. 63, 70 (1972); *Cochrane v. Deener*, 94 U.S. 780,787-88 (1876)). Since neither of these requirements is met by the claim, the method is not considered a patent eligible process under 35 U.S.C. 101. To qualify as a statutory process, the claim should positively recite the other statutory class to which it is tied, for example by identifying the apparatus that accomplishes the method steps or positively reciting the subject matter that is being transformed, for example by identifying the material that is being changed to a different state.

***Claim Rejections - 35 USC § 103***

11. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

*(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.*

12. Claims 4, 7-11, 13-17, 20-30, and 33-34 are rejected under 35 U.S.C. 103(a) as being unpatentable over *Oppenheimer*, US Patent No. 5,644,726, in view of, *Daniels*, US Patent Publication No. 2002/0091623.

**As per claim 4*****Oppenheimer teaches:***

- Creating with a computerized data interface, a partial equity interest defined by at least one of the group consisting of a contract, a recorded lien against the property, or sharing of title between the homeowner and at least one investor (see at least column 4, lines 10-42)
- The homeowner obtaining value for the partial equity interest (see at least column 4, lines 10-42)
- The homeowner retaining the right to continue to receive one or more tax advantages of ownership of the residential property (see at least column 2, lines 64-66)
- The homeowner retaining right of residency of the residential property, right to make home improvements, and right to determine when to sell the residential property (see at least column 2, lines 64-66)
- The homeowner having the obligation to pay any real estate taxes and mortgage payments associated with the residential property (see at least column 2, lines 64-66)
- The investor waiving one or more rights to control and sale of the property, while (see at least column 5, lines 12-26)
- The investor collecting a share of proceeds from a future sale of the residential property based on the partial equity interest (see at least column 5, lines 1-11)

Art Unit: 3691

***Oppenheimer does not teach:***

- The investor obtaining the rights to transfer the partial equity interest in the residential property to other parties
- Storing information about the partial equity interest in a computer accessible storage medium
- Retaining rights to approve a sales price of the residential property

***Daniels teaches:***

- The investor obtaining the rights to transfer the partial equity interest in the property to other parties (see at least page 2, paragraph 17)
- Storing information about the partial equity interest in a computer accessible storage medium (see at least page 3, paragraph 58)
- Retaining rights to approve a sales price of the equity interest in the property (see at least page 5, paragraph 78-81)

*However, it would have been obvious to one of ordinary skill in the art, at the time of the invention, to add the teachings of Daniels to the teachings of Oppenheimer. One would have been motivated to do so in order to give investors the opportunity to invest in a more diverse set of liquid real estate assets (see at least Daniels page 2, paragraph 15).*

**As per claim 7**

Claim 7, as best understood by the Examiner, encompasses substantially the same scope as claim 4. Accordingly, claim 7 is rejected in substantially the same manner as claim 1. The Examiner further recognizes several additional limitations further embodying the invention but not substantial to the invention. Such limitations are taught by Oppenheimer as follows:

- Applying for a real estate property equity sale and providing information relating to the real estate property transaction (see at least column 7, lines 1-10)

Art Unit: 3691

- Checking for related property documentation that provides an input into the application process and to ensure that all pertinent property documentation is provided (see at least column 8, lines 48-67; column 9, lines 1-67; column 10, lines 1-24)
- Processing all pertinent transaction information relating to the transaction (see at least column 8, lines 48-67; column 9, lines 1-67; column 10, lines 1-24)
- Transferring funds between the homeowner and at least one investor participating in the real estate property transaction (see at least column 7, lines 19-38)
- Filing documents that are related to the real estate transaction and making the documents of record in the transaction (see at least column 7, lines 19-38)

**As per claims 8-11**

*Oppenheimer, in view of Daniels, teaches the method of claim 7, as described above.*

*Oppenheimer further teaches:*

- Wherein the sale of the partial equity interest in the real estate property and the partial equity interest is a concurrent estate in land 6-18-38)
- Wherein in the applying step direct and indirect participation is permitted in the real estate transaction (see at least column 4, lines 29-65)
- Wherein the information includes ownership information, appraised value of the property, a specific amount of partial equity interest intended to be sold and a listing of all parties involved in the transaction (see at least columns 11-16, Table 1 and associated text)
- Wherein the checking step includes checking for completeness or incompleteness of the application and determines if the transaction should proceed or not proceed (see at least column 10, lines 22-24)

Art Unit: 3691

**As per claims 13-15**

*Oppenheimer, in view of Daniels, teaches the method of claim 7, as described above.*

***Oppenheimer further teaches:***

- Wherein the processing step provides a disposition of a submitted application (see at least column 7, lines 60-63)
- Wherein the homeowner remains responsible for property associated expenses including property taxes, mortgage payments, insurance and general operating expenses associated with the property (see at least column 2, lines 64-66)
- Wherein the entity will manage one or more real estate related transactions for the homeowner (see at least columns 11-16, Table 1 and associated text)

**As per claim 16**

*Oppenheimer, in view of Daniels, teaches the method of claim 7, as described above.*

***Oppenheimer further teaches:***

- Wherein the entity will receive a commission and other fees if applicable (see at least columns 11-16, Table 1 and associated text)

***Oppenheimer does not teach:***

- Wherein the entity will receive a plurality of fees including a placement commission, an annual fee, and a performance fee as compensation for the entity services provided

*The examiner has previously taken OFFICIAL NOTICE that charging various fees for services are old and well known in the service industry. The Applicant has not properly challenged such assertion. Accordingly, such assertion will be considered prior art, henceforth.*



Art Unit: 3691

**As per claim 17**

*Oppenheimer, in view of Daniels, teaches the method of claim 7, as described above.*

*Oppenheimer further teaches:*

- Wherein the processing step includes structuring the real estate transaction in a manner to avoid the payment of interest and the payment of principal upon sale of the partial equity interest (see at least column 4, lines 53-67; column 5, lines 1-11)

**As per claim 20**

*Oppenheimer, in view of Daniels, teaches the method of claim 7, as described above.*

*Oppenheimer does not teach:*

- Checking for information including any title, liens or appraisals that exist on the real estate property and factors this information into the processing means

*Daniels further teaches:*

- Checking for information including any title, liens or appraisals that exist on the real estate property and factors this information into the processing means (see at least page 3, paragraph 65)

**As per claims 21-23**

*Oppenheimer, in view of Daniels, teaches the method of claim 7, as described above.*

*Oppenheimer further teaches:*

- Wherein the processing step includes processing a standard home equity loan or line of credit based upon the existing equity in the real estate property (see at least column 3, lines 6-18)
- Wherein the processing step is performed to ensure that the entity has final approval authority on any aspect of the real estate transaction affecting the entity's interests, including the sale of the real estate property (see at least column 6, lines 40-56)
- Wherein the processing step ensures that a payback of the partial equity ownership share is due upon final sale of the real estate property (see at least column 5, lines 12-26)

Art Unit: 3691

**As per claim 24**

*Oppenheimer, in view of Daniels, teaches the method of claim 7, as described above.*

*Oppenheimer further teaches:*

- Accommodating transferred funds (see at least column 7, lines 19-38)

*Oppenheimer does not teach:*

- Accommodating transferred funds including cash, cash equivalents, warrants, options, financial derivatives and debt instruments

*The examiner has previously taken OFFICIAL NOTICE that cash, cash equivalents, warrants, options, financial derivatives, and debt instruments are old and well known methods of transferring funds. The Applicant has not properly challenged such assertion. Accordingly, such assertion will be considered prior art, henceforth.*

**As per claim 25**

*Oppenheimer, in view of Daniels, teaches the method of claim 7, as described above.*

*Oppenheimer further teaches:*

- Tracking the partial equity ownership share sale as a percentage of the total value of the real estate property sold (see at least columns 11-16, Table 1 and associated text)

**As per claim 26**

*Oppenheimer, in view of Daniels, teaches the method of claim 25, as described above.*

*Oppenheimer further teaches:*

- Wherein the processing step is performed to ensure that upon sale of the property, the entity receives a percentage of the appraised value of the real estate property (see at least columns 11-16, Table 1 and associated text)

Art Unit: 3691

**As per claim 27**

*Oppenheimer, in view of Daniels, teaches the method of claim 7, as described above.*

*Oppenheimer further teaches:*

- Tracking the partial equity ownership share sale as a dollar value (see at least columns 11-16, Table 1 and associated text)

**As per claim 28**

*Oppenheimer, in view of Daniels, teaches the method of claim 27, as described above.*

*Oppenheimer further teaches:*

- Wherein upon sale of the property, the entity receives an adjusted dollar value representing a value of the partial equity ownership share (see at least columns 11-16, Table 1 and associated text)

**As per claim 29**

*Oppenheimer, in view of Daniels, teaches the method of claim 28, as described above.*

*Oppenheimer further teaches:*

- Wherein an approval step is performed which yields a qualified approval that results in at least one subsequent iteration, where information including any missing, incomplete, or inadequate documentation is provided for further evaluation and application processing (see at least column 8, lines 57-63)

**As per claim 30**

*Oppenheimer, in view of Daniels, teaches the method of claim 7, as described above.*

*Oppenheimer further teaches:*

- Wherein the parties involved in the transaction are various long-term investors including pension funds (see at least column 3, lines 32-54)

Art Unit: 3691

***Oppenheimer does not teach:***

- Wherein the parties involved in the transaction are existing financial institutions including title companies, mortgage companies, real estate agents and brokers, institutional investors, private investors, mutual fund companies, commercial developers, residential developers, and title companies

*The examiner has previously taken OFFICIAL NOTICE that title companies, mortgage companies, real estate agents and brokers, institutional investors, private investors, mutual fund companies, commercial developers, residential developers, and title companies are old and well known parties involved in transactions. The Applicant has not properly challenged such assertion. Accordingly, such assertion will be considered prior art, henceforth.*

**As per claims 33-34**

***Oppenheimer, in view of Daniels, teaches the method of claim 7, as described above.***

***Oppenheimer further teaches:***

- Wherein the entity will manage one or more transactions for one or more homeowners and in exchange, the entity will receive a plurality of fees from one or more homeowners (see at least columns 11-16, Table 1 and associated text)
- Creating and maintaining a real estate property database, and the database includes owner information, property addresses, appraised values, changes in the appraised values over time, total equity interest in the property and equity interest that has been sold (see at least columns 11-16, Table 1 and associated text; column 7, lines 19-38)

Art Unit: 3691

13. Claims 5, 12, 18-19, and 31-32 are rejected under 35 U.S.C. 103(a) as being unpatentable over *Oppenheimer*, in view of, *Daniels*, in further view of, *Graff*, *US Patent No. 6,192,347 B1*.

**As per claim 5**

*Oppenheimer, in view of Daniels, teaches the method of claim 4, as described above.*

*Oppenheimer does not teach:*

- Wherein the waived rights include a right to receive federal tax benefits

*Graff teaches:*

- Wherein the waived rights include a right to receive federal tax benefits (see at least column 12, lines 6-42)

*However, it would have been obvious to one of ordinary skill in the art at the time of the invention, to add to the system of Oppenheimer, in view of Daniels, the teachings of Graff. One would have been motivated to combine these references in order to avoid tax problems associated with typical mortgage financing (see at least Graff column 9, lines 1-5).*

**As per claim 12**

*Oppenheimer, in view of Daniels, teaches the method of claim 7, as described above.*

*Oppenheimer further teaches:*

- Wherein the sale of the partial equity ownership in a home allows the homeowner to continue to live in the home (see at least column 2, lines 64-66)

*Oppenheimer does not teach:*

- Wherein the sale of the partial equity ownership in a home allows the homeowner to receive a federal tax deferral on that sale, and sell the rest of the home later under a lumped-sum transaction rule

*Graff teaches:*

- Wherein the sale of the partial equity ownership in a home allows the homeowner to receive a federal tax deferral on that sale, and sell the rest of the home later under a lumped-sum transaction rule (see at least column 35, lines 9-23)

Art Unit: 3691

*However, it would have been obvious to one of ordinary skill in the art at the time of the invention, to add to the system of Oppenheimer, the teachings of Graff. One would have been motivated to combine these references in order to avoid tax problems associated with typical mortgage financing (see at least Graff column 9, lines 1-5).*

**As per claim 18**

***Oppenheimer, in view of Daniels, teaches the method of claim 17, as described above.***

***Oppenheimer does not teach:***

- Executing the sale of the partial equity interest in the real estate property, the sale is considered a non-taxable event

***Graff teaches:***

- Executing the sale of the partial equity interest in the real estate property, the sale is considered a non-taxable event (see at least column 3, lines 60-67)

*However, it would have been obvious to one of ordinary skill in the art at the time of the invention, to add to the system of Oppenheimer, the teachings of Graff. One would have been motivated to combine these references in order to avoid tax problems associated with typical mortgage financing (see at least Graff column 9, lines 1-5).*

**As per claim 19**

***Oppenheimer, in view of Daniels, in further view of Graff, teaches the method of claim 18, as described above.***

***Oppenheimer does not teach:***

- Wherein when the sale of the partial equity interest in the real estate property is executed, processing is performed to minimize taxable consequences

***Graff further teaches:***

- Wherein when the sale of the partial equity interest in the real estate property is executed, processing is performed to minimize taxable consequences (see at least column 7, lines 23-67; column 8, lines 1-54)

Art Unit: 3691

**As per claim 31**

*Oppenheimer, in view of Daniels, teaches the method of claim 30, as described above.*

*Oppenheimer further teaches:*

- Continuously monitoring changes including property status that affect the real estate transaction and any interests of the parties involved (see at least column 7, lines 39-59)

*Oppenheimer does not teach:*

- Continuously monitoring changes including legal and tax issues that affect the real estate transaction and any interests of the parties involved

*Graff teaches:*

- Continuously monitoring changes including legal and tax issues that affect the real estate transaction and any interests of the parties involved (see at least column 36, lines 10-39; column 38, lines 38-58)

*However, it would have been obvious to one of ordinary skill in the art at the time of the invention, to add to the system of Oppenheimer, the teachings of Graff. One would have been motivated to combine these references in order to avoid tax problems associated with typical mortgage financing (see at least Graff column 9, lines 1-5).*

**As per claim 32**

*Oppenheimer, in view of Daniels, in further view of Graff, teaches the method of claim 31, as described above.*

*Oppenheimer does not teach:*

- Evaluating local state law and structuring the transaction in a manner to avoid any due on sale clause that is triggered by the real estate transaction

*Graff further teaches:*

- Evaluating local state law and structuring the transaction in a manner to avoid any due on sale clause that is triggered by the real estate transaction (see at least column 95, lines 25-35; column 4, lines 27-31)

Art Unit: 3691

***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thomas M. Hammond III whose telephone number is 571-270-1829. The examiner can normally be reached on Monday - Thursday, 7AM - 5PM EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Alexander Kalinowski can be reached on 571-272-6771. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Thomas M Hammond III

Patent Examiner, Art Unit 3691

US Patent & Trademark Office

06/22/2008



Art Unit: 3691

/Hani M. Kazimi/

Primary Examiner, Art Unit 3691